IN THE HIGH COURT OF JUDICATURE AT BOMBAY

FIRST APPEAL NO.380 OF 2004

Umesh Ganesh Deshpande .. Appellant
Versus
M/s.Balaji Carriers and Ors. .. Respondents

Mr.N.P.Deshpande for appellant
Mr.S.S.Vidyarthi i/b S.M.Vidyarthi for respondents

CORAM : P.V.KAKADE,J.

DATE : 23rd SEPTEMBER, 2004

P.C.:

1. Heard the learned counsel for both the parties.

2. Rule. Rule made returnable forthwith.

3. This appeal arises out of judgment dated 7.11.2003 passed by Addl. Member, MACT Pune whereby the Application of the claimant was partly allowed and the Opponent No.1 was directed to pay the claimant the amount of Rs.77,700/= as compensation towards 70% liability of the accident together with interest at the rate of 9% p.a. from the date of registration of

application till realisation and proportionate costs.

. The Claim Application was lodged on account of the accident which occurred on 21st July 1989 on Mumbai-Pune Road within the limits of Lonawala City Police Station at about 0030 midnight. The claim was for an amount of Rs.2,00,000/=. Respondent No.1, the owners of the vehicle in question, did not appear before the Tribunal. The claim was resisted only by the Insurance Company. The Appellant only produced extract of the Regional Transport Office, showing insurance of the vehicle and it was not established whether the involved vehicle was insured with the Respondent-Insurance Company or not. More so, the Insurance company specifically denied that the vehicle involved was not insured by them. Under the circumstances the learned Member relied upon the ratio of the case of Oriental Fire & General Insurance Co. Ltd. vs. Dr.G.R.Purohit and Ors.reported in 1 (1999) ACC 138 Bombay wherein it was held that mere entry in the RTO Register referring to name of insurance company does not establish the fact that the vehicle in question in fact was insured.

4. After hearing both sides and perusing the entire record it is obvious that the appellant, even after coming to know through the RTO documents that the impugned Insurance Company was named in the RTO Office did not take any steps such as issue notice to Insurance Company to produce Policy etc. to ascertain whether in fact the involved vehicle was insured with the said company or not. Therefore in absence of any other evidence to the contrary, the findings recorded by the learned Member of the MACT cannot be said to be illegal and therefore, would brook no interference.

. The learned counsel for the appellant at this stage submitted that the matter could be remanded in order to obtain necessary information from the Insurance Company pertaining to Insurance Policy. However, in my view this is not a fit case to remand the matter, as it is needless to mention that process of remand cannot be gives fill in the lacuna in view of the settled position of the law in respect of evidential value of entries in the RTO records. There is no other point involved in this appeal and therefore, I have no hesitation to hold that the appeal deserves to be dismissed and therefore, dismissed. In the circumstances there shall be no order

of costs.